

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**ISABELLA BERNAL, Individually and On
Behalf of All Others Similarly Situated,**

Plaintiff,

V.

**BACKSLIDERS, LLC D/B/A SOUTH
AUSTIN BEER GARDEN, DAVID B.
PEARCE AND RYAN THOMAS,**

Defendants

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Civil Action No. 1:23-cv-00471-ML

**JOINT MOTION REQUESTING DISMISSAL WITH PREJUDICE CONTINGENT UPON
THE COURT’S RETENTION OF LIMITED CONTINUING JURISDICTION**

TO THE HONORABLE COURT:

Plaintiff Isabella Bernal (on her behalf and on behalf of opt-in Plaintiffs Claudia Almanza, Brandt Stewart, and Darryl Russell) and Defendants Backsliders, LLC dba “South Austin Beer Garden,” David B. Pearce, and Ryan Thomas, being all the parties hereto, bring this Joint Motion Requesting Dismissal With Prejudice Contingent Upon the Court’s retention of Limited Continuing Jurisdiction, and in support thereof and would show as follows:

1. This case is a collective action brought under the federal Fair Labor Standards Act (“FLSA”), through which Plaintiff Isabella Bernal sought to recover from Defendants unpaid minimum wages, unpaid tips, overtime wages, liquidated damages, interest, litigation costs, expenses, and attorneys’ fees.

2. After extensive negotiation, the Plaintiff and Defendants, each represented by experienced independent counsel in this adversary proceeding, have come to an agreement to settle and compromise any and all matters and disputes in the above-referenced cause. The parties, through their undersigned counsel, stipulate and represent that their settlement of the FLSA claims of Plaintiff and the opt-in Plaintiffs is a fair and reasonable resolution of a bona fide dispute arising under the FLSA.

3. Plaintiff and Defendants' settlement is secured by Defendants' execution of an agreed judgment, which is to be held in trust by Plaintiff's counsel pending and subject to Defendants' completion of all payments required under the parties' settlement agreement. Plaintiff and Defendants have agreed to the Court's retention of continuing ancillary jurisdiction through April 1, 2026 in order to permit entry of the agreed judgment if doing so becomes necessary to enforce the Defendants' promises in the parties' settlement agreement. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381-82 (1994).

4. The parties' request for dismissal with prejudice is expressly contingent upon the Court's retention of continuing ancillary jurisdiction through April 1, 2026 in order to permit entry of the agreed judgment if such is necessary to enforce the parties' settlement agreement. *See Smallbizproz, Inc. v. MacDonald*, 618 F.3d 458, 463-464 (5th Cir. 2010).

5. Subject to the Court's retention of continuing jurisdiction as requested above, Plaintiff and Defendants jointly move for the administrative closure and dismissal with prejudice of the above-styled and numbered lawsuit and all claims therein. The parties shall each bear their own costs except as provided in their settlement agreement.

WHEREFORE, PREMISES CONSIDERED, Plaintiff and Defendants jointly move that, in accordance with the agreements of the parties, that the Court retain continuing ancillary jurisdiction over enforcement of this cause through April 1, 2026 in order to permit entry of the agreed judgment if doing so becomes necessary to enforce the Defendants' promises in the parties' settlement agreement. Contingent upon the Court's retention of such jurisdiction, Plaintiff and Defendants further jointly move that the Court administratively close this cause and dismiss this cause with prejudice to its refiling.

Respectfully submitted,

Attorneys for Plaintiffs:

/s/ Aaron Charles de la Garza

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CERTIFICATE OF SERVICE

I certify that on this the ^{20th} day of August 2024, I electronically submitted this document for filing using the Court's CM/ECF system, which will serve a true and correct copy of this document on counsel of record.

/s/ Aaron Charles de la Garza

Aaron Charles de la Garza